

Appl. No. : 09/870,619
Filed : May 31, 2001

REMARKS

In response to the Office Action mailed June 26, 2003 , Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the above amendments and the following comments.

Allowable Subject Matter

The Examiner has indicated that Claims 1-3, 5-19, 21, 23-27, 30-36, 48-52 and 55-59 are in condition for allowance. The Examiner has also indicated that Claims 41-45 contain allowable subject matter and would be in condition for allowance if rewritten into independent form.

Claim 41 has been rewritten into independent form including all the limitations any intervening claims. Claim 41 is therefore in condition for allowance. Claims 42-45 depend upon Claim 41 and for at least this reason these claims are also in condition for allowance.

Matters of Form

Applicant has amended Claim 56 to correct informality noted by the Examiner.

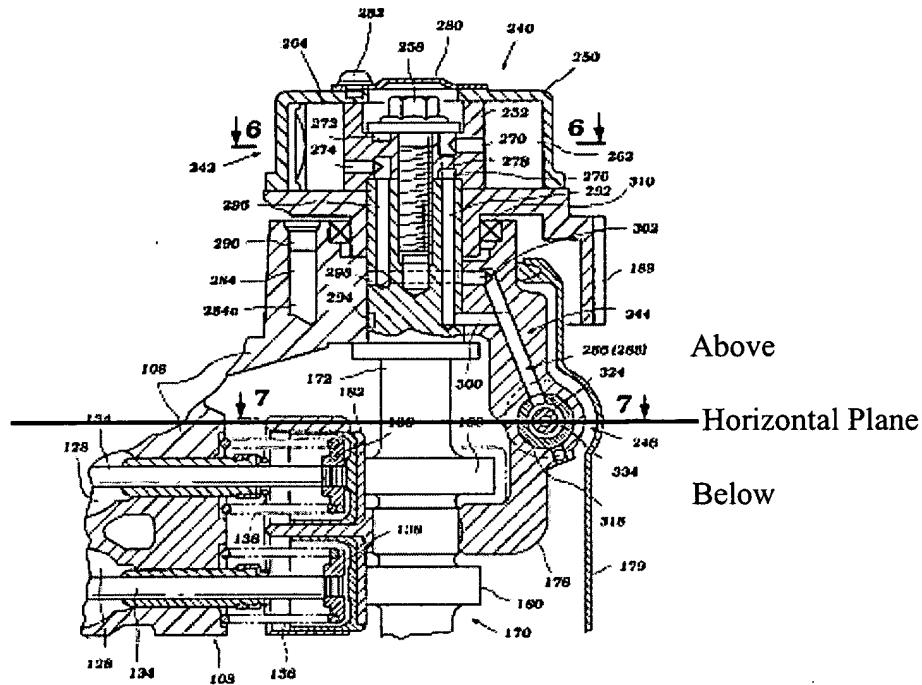
Claim Rejections

Claims 20, 37-40, 46-47 and 53-54 stand rejected under 35 U.S.C. § 102(b) as anticipated by Nakamura (U.S. Patent No. 5,797,363).

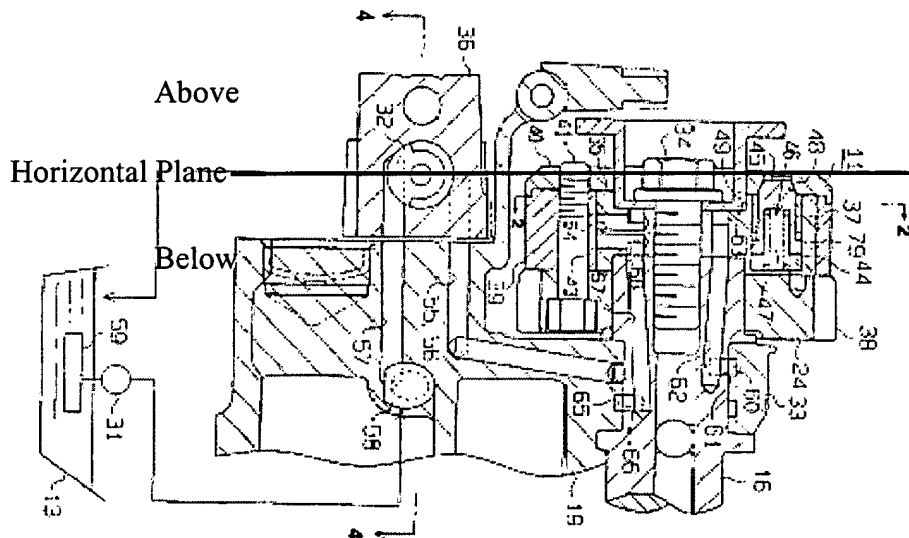
To advance prosecution, Applicant has canceled Claim 20 and amended independent Claim 37 as outlined below to more particularly and distinctly claim Applicant's invention.

Claim 37 now recites, in part, an engine comprising an a variable valve timing mechanism having a setting section, a supply section, and a control section "the supply section comprising a first hydraulic passage and a second hydraulic passage that are in hydraulic communication with the setting section and the control section, the first hydraulic passage and the second hydraulic passage not extending ~~through~~ below a generally horizontal plane that contains a central axis that extends through the control valve."

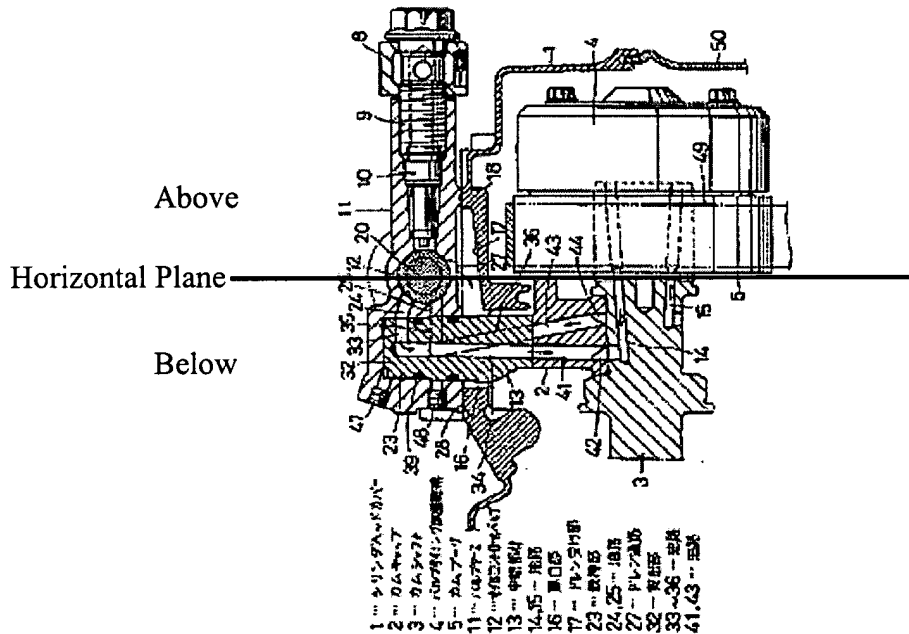
Claim 37 is directed to the embodiment illustrated in Figure 5 of the present application which is provided below for the Examiner's convenience.



In contrast, as shown in Figure 1, Nakumura disclosed an engine with a variable valve timing system in which the supply passages 55, 56 extend below a generally horizontal plane that contains a central axis that extends through the control valve 32.



As shown in Figure 3, Deguchi also disclosed an engine with a variable valve timing system in which the supply passages 34, 36 extend below a generally horizontal plane that contains a central axis that extends through the control valve 20.



Accordingly, the cited art does not disclose a “supply section comprising a first hydraulic passage and a second hydraulic passage that are in hydraulic communication with the setting section and the control section, the first hydraulic passage and the second hydraulic passage not extending below a generally horizontal plane that contains a central axis that extends through the control valve.” For at least this reason, Applicant respectfully submits that Claim 37 in condition for allowance. Claims 38-40, 46-47 and 53-54 are also in condition for allowance because, *inter alia*, they depend either directly or indirectly upon allowable Claim 37.

Appl. No. : 09/870,619
Filed : May 31, 2001

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 26, 2003

By: 

Rabinder N. Narula
Registration No. 53,371
Attorney of Record
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
(949) 760-0404

H:\DOCS\IRNN\IRNN-7067.DOC
092603